

United States District Court

FILED

NORTHERN DISTRICT OF CALIFORNIA

JUL 17 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

Venue: San Francisco

V.

CRIMINAL COMPLAINT

JUAN ALARCON-BAUTISTA
a/k/a ERNESTO BAUTISTA-PEREZ, and
a/k/a SERGIO VASQUEZ LUCAS

CASE NUMBER: 3 08 70453

MEJ

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about June 20, 2008 in San Francisco County, in the Northern District of California defendant(s) did,

OFFENSE: JUAN ALARCON-BAUTISTA (a/k/a ERNESTO BAUTISTA-PEREZ, and a/k/a SERGIO VASQUEZ LUCAS), an alien, after having been removed, excluded, and deported from the United States, was thereafter found in the United States without having obtained the express consent of the Attorney General or the Secretary of the Department of Homeland Security to reapply for admission into the United States, in violation of Title 8 United States Code, Section(s) 1326.

I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:
Official Title

SEE ATTACHED AFFIDAVIT IN SUPPORT OF THIS COMPLAINT

PENALTIES: Imprisonment for not more than 20 years, a fine of not more than \$250,000.00, a \$100.00 dollar special assessment, and 3 years supervised release.

APPROVED AS TO FORM:

Nat Cousins
ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Warrant of Arrest Requested: ☐ Yes ☒ No

Bail Amount: **NO BAIL**

[Signature]
Signature of Complainant

Sworn to before me and subscribed in my presence,

7-17-08 at San Francisco, California
Date City and State

Honorable Maria-Elena James
United States Magistrate Judge

Name & Title of Judicial Officer

[Signature]
Signature of Judicial Officer

STATE AND NORTHERN DISTRICT OF CALIFORNIA)
) ss, AFFIDAVIT
CITY AND COUNTY OF SAN FRANCISCO)

I, Cesar J. Lopez, Deportation Officer, U.S. Immigration and Customs Enforcement (ICE), being duly sworn, depose and state:

I. INTRODUCTION AND PURPOSE OF AFFIDAVIT

1. This affidavit is submitted in support of a criminal complaint against JUAN ALARCON-BAUTISTA, a/k/a ERNESTO BAUTISTA-PEREZ, and a/k/a SERGIO VASQUEZ LUCAS, for violating 8 U.S.C. § 1326. The facts set forth in this Affidavit are based on my review of ALARCON-BAUTISTA'S official Immigration file (No. A77 312 161), my personal observations, my training and experience, and where noted, information related to me by other law enforcement officials. However, the facts set forth in this Affidavit are not all facts related to ALARCON-BAUTISTA that I know.

II. AGENT'S BACKGROUND AND EXPERTISE

2. I have been a Deportation Officer with the U. S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), formerly the United States Department of Justice (DOJ), Immigration and Naturalization Service (INS), for approximately 14 years. I am currently assigned to ICE's San Francisco, California office, and I am responsible for enforcing federal criminal statutes involving criminal aliens who reenter the United States illegally.

III. APPLICABLE LAW

3. Title 8 U.S.C. § 1326 provides criminal penalties for “any alien who . . . has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien’s reapplying for admission; or (B) with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior Act”

IV. FACTS ESTABLISHING PROBABLE CAUSE

4. JUAN ALARCON-BAUTISTA, a/k/a ERNESTO BAUTISTA-PEREZ, and a/k/a SERGIO VASQUEZ LUCAS is a 39 year-old male who is a native and citizen of Mexico. ALARCON-BAUTISTA was deported from the United States to Mexico on June 23, 2000, July 25, 2001, March 04, 2002, July 02, 2002, October 28, 2003, August 13, 2004, November 15,

2004, March 09, 2005, February 21, 2006, March 31, 2006, April 29, 2006, May 09, 2006, May 16, 2006, November 01, 2006, November 07, 2006 December 02, 2006, and February 16, 2008. ALARCON-BAUTISTA last entered the United States illegally on May 10, 2008 by voluntarily crossing into California through the international border with Mexico by foot. ALARCON-BAUTISTA knowingly remained in the United States without first having obtained the consent to reapply for admission from the Attorney General of the United States or the United States Secretary of Homeland Security.

5. The official Immigration file for ALARCON-BAUTISTA contains 17 executed Warrants of Removal. The Warrants of Removal are dated June 23, 2000, July 25, 2001, March 04, 2002, July 02, 2002, October 28, 2003, August 13, 2004, November 15, 2004, March 09, 2005, February 21, 2006, March 31, 2006, April 29, 2006, May 09, 2006, May 16, 2006, November 01, 2006, November 07, 2006 December 02, 2006, and February 16, 2008, the dates that ALARCON-BAUTISTA was deported from the United States to Mexico.

6. On or about June 20, 2008, an ICE agent encountered ALARCON-BAUTISTA pursuant to his release from the San Francisco County Jail in San Francisco, California on unrelated charges. ALARCON-BAUTISTA stated that his name was Juan Alarcon-Bautista. Subsequently, the agent lodged an ICE detainer against him.

7. On July 15, 2008, a full set of rolled fingerprints belonging to ALARCON-BAUTISTA was submitted the Automated Fingerprint Identification Center ("AFIS"), for verification of the identity. The fingerprint examiner positively identified the fingerprint as belonging to ALARCON-BAUTISTA who had previously been removed from the United States as referenced in paragraph 4 and 5.

8. On July 16, 2008, I interviewed ALARCON-BAUTISTA at the ICE office in San Francisco, California. After ALARCON-BAUTISTA was advised of his Miranda rights and the right to speak with the consular or diplomatic officers of his country of citizenship, he admitted that his true name was JUAN ALARCON-BAUTISTA. ALARCON-BAUTISTA admitted that he was a citizen and national of Mexico and that he had been previously deported from the United States. He also admitted that he illegally reentered the United States on May 10, 2008.

9. On May 10, 2004, JUAN ALARCON-BAUTISTA was sentenced to 6 months imprisonment, following a conviction for a violation of 8 U.S.C 1325(a).

10. On July 11, 2007, JUAN ALARCON-BAUTISTA, a/k/a ERNESTO BAUTISTA-PEREZ, and a/k/a SERGIO VASQUEZ LUCAS was sentenced to 10 months imprisonment, and three years of supervised release, following a conviction for a violation of 8 U.S.C. 1326(b).

11. There is no indication in ICE's official files that ALARCON-BAUTISTA has applied for or been granted the requisite permission to reenter the United States from either the Attorney General of the United States or the Secretary of Homeland Security.

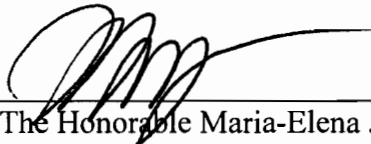
V. CONCLUSION

12. On the basis of the above information, I submit that probable cause exists to believe that JUAN ALARCON-BAUTISTA, a/k/a ERNESTO BAUTISTA-PEREZ, and a/k/a SERGIO VASQUEZ LUCAS illegally reentered the United States following deportation, in violation of 8 U.S.C. § 1326.



Cesar J. Lopez
Deportation Officer
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
San Francisco, California

Subscribed and sworn to before me this 17 day of July, 2008.



The Honorable Maria-Elena James
United States Magistrate Judge
Northern District of California
San Francisco, California